

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

ROY THOPPIL THOMAS,

Petitioner,

v.

MICHAEL B. MUKASEY, et al.,

Respondents.

Case No. 3:08-CV-151

(Judge Kosik)

**MEMORANDUM AND ORDER**

NOW, this 29<sup>th</sup> day of February, 2008, it appearing to the court that:

(1) Petitioner, Roy Thoppil Thomas, a detainee of the Bureau of Immigration and Customs Enforcement (“ICE”) who is currently detained at the Pike County Correctional Facility, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 on January 24, 2008;

(2) This matter was assigned to Magistrate Judge Thomas M. Blewitt;

(3) On January 31, 2008, the Magistrate Judge filed a Report and Recommendation in which he recommended that the petitioner’s petition for habeas corpus be denied as premature;

(4) The Magistrate Judge found that because “no final order with respect to Petitioner’s pending Motion to Reopen his immigration case to allow him to appeal . . . his removal order has been entered yet, and Petitioner’s case is still pending with the Second Circuit, . . . Petitioner’s removal period and his presumptive six-month period have not yet begun.” Additionally, the Magistrate Judge found that the Bureau of Immigration and Customs Enforcement should respond to the petitioner’s December 21, 2007 request for release within thirty (30) days;

(5) No objections were filed to the Magistrate Judge’s Report and Recommendation;

AND, IT FURTHER APPEARING THAT:

(6) If no objections are filed to a magistrate judge's report and recommendation, the petitioner is not statutorily entitled to a *de novo* review of his claims. See 28 U.S.C. § 636(b)(1)(C); Thomas v. Arn, 474 U.S. 140, 150–53 (1985). Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a magistrate judge's report prior to adopting it. See Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987).

(7) Having considered the Magistrate Judge's Report, we agree with the recommendation;

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The Report and Recommendation of Magistrate Judge Thomas M. Blewitt dated January 31, 2008 is **ADOPTED**;

(2) The petitioner's motion to proceed *in forma pauperis* is **GRANTED**;

(3) The Bureau of Immigration and Customs Enforcement is hereby **ORDERED** to **RESPOND** to the petitioner's request for release within thirty (30) days of this order;

(4) The petition for writ of habeas corpus is **DENIED**; and

(5) The Clerk of Court is further directed to **CLOSE** this case and to **FORWARD** a copy of this Memorandum and Order to the Magistrate Judge.

*s/Edwin M. Kosik*  
United States District Judge